

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STEVEN VANCE and TIM JANEKYK, for
themselves and others similarly situated,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

No. 2:20-cv-01082-JCC-MAT

**PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY**

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1 **NOTICE OF SUPPLEMENTAL AUTHORITY**

2 Plaintiffs, Steven Vance and Tim Janecyk, through counsel, respectfully notify the court
3 of the recent decision in *Flores v. Motorola Solutions, Inc.*, No. 1:20-cv-01128 (N.D. Ill. Jan. 8,
4 2021) (Exhibit 1, hereto), that addresses various issues raised in the motion to dismiss of
5 Defendant Microsoft Corporation (Dkt. 25). In summary, the court in *Flores*:
6

- 7 • rejected the contention that the consent requirement of § 15(b) of the Illinois Biometric
8 Information Privacy Act (“BIPA”), 740 ILCS 15/1, *et seq.*, “only applies where an
9 information collector has some relationship with the individual and has an opportunity
10 to perform the written exchange of notice,” *see* Ex. 1 at 3;
11 • rejected the contention that BIPA’s protections do not apply to publicly published
12 photographs of individuals “given that the biometric data in this case is the facial
13 geometry of the class members, in contrast to the photos themselves,” *id.*;
14 • rejected the contention that the “otherwise profit from” language in BIPA § 15(c) “does
15 not evince a legislative intent to encompass the sale of biometric *technology* as opposed
16 to data,” *see id.* at 3-4 (emphasis in original); and
17 • rejected the defendants’ contention that the Plaintiffs failed to allege an unjust
18 enrichment claim. *Id.* at 4

16 Dated: January 15, 2021

17 STEVEN VANCE and TIM JANECYK,
18 for themselves and others similarly situated,

19 By: /s/ Scott R. Drury
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